

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

-vs-

RICHARD PETIX,

Defendant.

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PRE-TRIAL ORDER  
15-CR-227 CJS

SCHEDULE

**A. Schedule**

1. The trial of the above-captioned case will begin with jury selection on **Monday, May 1, 2017 at 9:00 a.m.**<sup>1</sup> This is a day certain trial date which will not be adjourned.

2. The trial schedule is as follows:

Monday	9:00 a.m. to 4:00 p.m. with a lunch break from 12:30 p.m. to 1:30 p.m.
Tuesday	9:00 a.m. to 1:00 p.m.
Wednesday	9:00 a.m. to 1:00 p.m.
Thursday	9:00 a.m. to 1:00 p.m.
Friday	9:00 a.m. to 1:00 p.m.

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<sup>1</sup>The trial is expected to be completed by May 5, 2017.

## **B. Jury Selection: Procedure and Material**

### **1. Method**

a) The jury will be selected using the “struck jury” method. Per the Federal Rules of Criminal Procedure 24(b), the prosecution will have six peremptory challenges and the defendant ten, to be exercised jointly.

b) The Court will place thirty-two members of the jury pool in the box.

c) The Court will conduct the entire voir dire.

d) The prosecution and defense may provide to the Court a list of proposed questions you wish the Court to ask the jury during voir dire by April 17, 2017.

**Counsel is also directed to provide to the Court an electronic copy in Wordperfect or Word compatible format (via e-mail to [kelly\\_pruden@nywd.uscourts.gov](mailto:kelly_pruden@nywd.uscourts.gov) or computer disk) of the list of proposed questions by April 17, 2017.**

e) The peremptory challenges shall be exercised in rounds. In the first four rounds the prosecution shall exercise or waive one challenge with the defense exercising, or waiving, two challenges. In rounds five and six, both the prosecution and defense will each have one peremptory challenge to exercise. After the regular jury is selected, two alternates will be selected from the remaining prospective jurors seated in the box, with the prosecution and defense each having one challenge.

### **2. Witness List**

The Court expects the prosecution and the defense to exchange the names of prospective witnesses not later than April 17, 2017. A copy of each list must be provided to the court reporter at the commencement of the trial. **Counsel is also directed to provide a copy of the witness list to the Court by April 17, 2017, in**

**both hard copy and electronic form as described in Section B, Paragraph 1(d) of this order.** For proper identification to the jury and for use by the Court, each list, which

must be on a separate sheet of paper, should include:

- a) The full name of the witness;
- b) The occupational association of the witness, e.g., FBI;
- c) The address of witness; and
- d) A short summary statement (one or two sentences) of the general subject matter expected to be covered by the witness.

**C. Trial Procedure and Material**

1. Evidentiary Issues - Counsel should bring to the Court's attention prior to trial, any unusual evidentiary issues expected to arise during the trial. If appropriate, the court may rule on the issue prior to the commencement of the trial.

2. 404(b) Material - The Government shall provide to the defendant and to the Court, to the extent it has not already done so, any evidence of defendant's uncharged misconduct which it intends to introduce at trial pursuant to Federal Rule of Evidence 404(b) by **April 17, 2017**.

3. Jencks Material - By consent, the United States Attorney prosecuting the case shall disclose (if disclosure has not yet occurred) Jencks Act Material by **April 17, 2017**.

4. Exhibits and Exhibit List:

- a) All exhibits will be pre-marked and whenever possible, stipulated into evidence.
- b) Each side must prepare an exhibit list containing those exhibits that

the prosecution and defense anticipate introducing in its direct case.

c) All the prosecution's exhibits shall be denominated by number and all the defense exhibits shall be denominated by letter.

d) A complete copy of the exhibit list must be given to the court reporter at the commencement of trial.

e) During the evening recess, each side will be responsible for maintaining custody of its exhibits and returning them to Court the next day (unless other arrangements are made with the Court).

f) The parties are responsible for having witnesses available. The court will take witnesses out of turn to accommodate witnesses.

g) At least by the evening before each day's session, counsel must advise the opponent and the Court of those witnesses expected to be called the following day.

h) The Court will set time limits for opening statements and closing arguments, and it is expected that counsel will adhere to those limits.

i) Counsel need not ask permission to approach a witness with an exhibit, but otherwise questioning should be done from the lectern.

#### **D. Jury Charge**

1. The Court directs the Government to provide to the Court and defense counsel a copy of a proposed jury charge, as to the specific offenses charged on or before April 17, 2017. **The Court further directs the Government to provide an electronic copy (via e-mail to [kelly\\_pruden@nywd.uscourts.gov](mailto:kelly_pruden@nywd.uscourts.gov) or computer disk) of the proposed jury charge on or before April 17, 2017.**

2. If, after reviewing the proposed charge submitted by the Government, a defendant wishes to submit an alternate charge on a particular issue or issues, that alternate charge should be submitted to the Court by April 24, 2017. **The Court directs the defendant to provide an electronic copy (via e-mail to kelly\_pruden@nywd.uscourts.gov or computer disk ) of the proposed alternate jury charge on or before April 24, 2017.**

3. The parties are reminded that these are to be regarded as jury charge proposals intended to assist the Court in formulating its own final charge to the jury.

4. The Court will inform counsel of its intended jury charge prior to closing arguments. Federal Rules of Criminal Procedure 30.

5. Counsel may make additional jury charge requests or exceptions then.

IT IS SO ORDERED.

Dated: Rochester, New York  
April 6, 2017

ENTER:

/s/ Charles J. Siragusa  
CHARLES J. SIRAGUSA  
United States District Judge